

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LEO KHAYET,

Plaintiff,

vs.

TODD CUSHING,

Defendant.

8:18CV330

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Motion for Reconsideration, ECF No. 135, filed by Plaintiff Leo Khayet. Based on “[c]onstitutional grounds,” Khayet asks the Court to reconsider its Memorandum and Order, ECF No. 106, granting Defendant Todd Cushing and American Nebraska Limited Partnership’s Motion to Cancel Notice of Lis Pendens and for Sanctions.

Relief from a court order may be sought under Federal Rule of Civil Procedure 60(b). Khayet filed multiple notices of appeal in this case, ECF Nos. 111, 126, 130, before he filed the pending Motion for Reconsideration, and, generally, “the filing of a notice of appeal ‘confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.’” *In re Fisette*, 695 F.3d 803, 806 (8th Cir. 2012) (quoting *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982)). However, because the Court construes Khayet’s Motion for Reconsideration as seeking relief under Rule 60(b), it must rule on the rule on the Motion pursuant to Federal Rule of Appellate Procedure 4(a)(4)(B)(i). *Smith v. Missouri*, 804 F.3d 919 (8th Cir. 2015) (per curiam) (“Because [the] NOA will not become effective until after the

District Court has ruled on [the] request for Rule 60(b) relief, we lack jurisdiction over the appeal at this time.”).

After carefully reviewing the Memorandum and Order, ECF No. 106, the Court finds that Khayet is not entitled to any relief from that Order. Accordingly,

IT IS ORDERED: The Motion for Reconsideration, ECF No. 135, filed by Plaintiff Leo Khayet, is denied.

Dated this 7th day of November, 2018.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge